

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

NEFF GROUP DISTRIBUTORS, INC.,

Plaintiff,

v.

COGNEX CORPORATION,

Defendant.

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NO.: 3:22-cv-00186-SLC

**DEFENDANT’S PARTIAL MOTION TO DISMISS PLAINTIFF’S COMPLAINT AND
TO STRIKE PLAINTIFF’S JURY DEMAND**

Defendant Cognex Corporation (“Defendant”), through its undersigned counsel, respectfully moves this Court, pursuant to Fed. R. Civ. P. 12(b)(6), for an order dismissing Counts II, III, and IV brought by Plaintiff Neff Group Distributors, Inc. (“Plaintiff”) in its Complaint (the “Complaint”) in their entirety. In addition, Defendant respectfully moves this Court, pursuant to Fed. R. Civ. P. 12(b)(6), for an order dismissing Count I of the Complaint to the extent that Count I purports to extend protections of the Wisconsin Fair Dealership Law, Wis. Stat. § 135.01 *et seq.*, to the Ohio Agreement and Indiana Agreement (as those terms are defined in Defendant’s supporting memorandum of law) and purports to seek damages under Count I related to the Ohio and Indiana Agreement, and for an order declaring that Count I is strictly limited to the Wisconsin Agreement (as that term is defined in Defendant’s supporting memorandum of law). In the alternative, in the event this Court denies Defendant’s motion to dismiss one or more of Plaintiff’s claims, Defendant moves this Court for an order striking Plaintiff’s demand for a jury trial on Plaintiff’s remaining claims. In support thereof, defendant relies on the incorporated

memorandum of law, the pleadings and exhibits on file, the Local Rules of this Court, and the Federal Rules of Civil Procedure.¹

Respectfully submitted this 11th day of April, 2022.

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¹ It is well settled that a partial 12(b) motion enlarges a defendant's time to file an answer to the portions of a complaint on which a defendant does not move for dismissal. *See* Fed. R. Civ. P. 12(a)(4)(A) ("Unless the court sets a different time, serving a motion under this rule [12] alters [the answer periods] as follows: (A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action."); *see also Brocksopp Engineering, Inc. v. Bach-Simpson Ltd.*, 136 F.R.D. 485 (E.D. Wis. 1991) ("[A] partial 12(b) motion enlarges the time to file an answer."). As a result, Cognex has not filed an answer in response to the portions of the Complaint on which it does not move for dismissal.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of April, 2022, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following persons at the given email addresses:

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